

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Unlicensed Activity of:

No. 06F-BD034-BNK

3 **JACK'S MEDICAL BILLING SERVICES,**
4 **INC. AND JASON CARR, PRESIDENT**
444 East Southern, Suite F
Phoenix, AZ 85040-3071

CONSENT ORDER

5
6 Petitioners.

7 On March 3, 2006, the Arizona Department of Financial Institutions ("Department") issued a
8 Notice of Hearing alleging that Petitioners had violated Arizona law. Wishing to resolve this matter
9 in lieu of an administrative hearing, Petitioners do not contest the following Findings of Fact and
10 Conclusions of Law, and consent to the entry of the following Order.

11 **FINDINGS OF FACT**

12 1. Petitioner Jack's Medical Billing Services, Inc. ("JMBS") is an Arizona corporation
13 that is not and was not, at any time material herein, authorized to transact business in Arizona as a
14 collection agency within the meaning of A.R.S. §§ 32-1001 *et seq.* The nature of JMBS' business is
15 that of soliciting claims for collection and collection of claims owed, due, or asserted to be owed or
16 due within the meaning of A.R.S. § 32-1001(A)(2)(a).

17 2. Petitioner Jason Carr ("Mr. Carr") is the President of JMBS and is not and was not, at
18 any time material herein, authorized to transact business in Arizona as a collection agency within the
19 meaning of A.R.S. §§ 32-1001 *et seq.*

20 3. JMBS and Mr. Carr are not exempt from licensure as a collection agency within the
21 meaning of A.R.S. § 32-1004(A).

22 4. On November 1, 2005, Native American Air Ambulance, Inc. ("NAAA") faxed to the
23 Department: (1) a complaint filed against JMBS; (2) a "Collection Services Agreement"; and (3) a
24 list of JMBS' invoices.

25 5. NAAA states that it mutually entered into a "Collection Services Agreement" with
26 JMBS on June 1, 2003 whereby JMBS agreed to, among other things:

- a. collect NAAA's unpaid accounts; receive payments from debtors on behalf of NAAA; arrange for payments; give good and sufficient release to debtors; and place debtors' information with one or more credit bureaus; and
- b. each month, JMBS is entitled to receive, among other things, 33 and one third percent (33.3%) of all monies collected plus fifty percent (50%) on all accounts referred for legal action, out of state, over one (1) year old, or second placement.

6. NAAA states in its complaint that JMBS: (1) may not be licensed with the Department; (2) is not reporting and paying monies on a timely basis; (3) provided only two (2) checks on March 5, 2004 and May 19, 2004, respectively; (4) continues to collect on NAAA's behalf; and (5) owes NAAA approximately \$54,000.00 in collected debtor funds.

7. On November 3, 2005 the Department sent a letter to JMBS stating that they had reason to believe that JMBS was operating in Arizona without the benefit of a collection agency license. The Department gave JMBS an opportunity to respond by November 13, 2005.

8. On November 14, 2005, JMBS' attorney, John G. Sestak, Jr. ("Mr. Sestak"), responded in writing to the Department's letter and to NAAA's complaint. Mr. Sestak also requested a meeting with the Department.

9. On November 16, 2005, the Department responded to Mr. Sestak by requesting him to address the Department's concern, which was illustrated in the November 3, 2005 letter, that JMBS may be in violation of A.R.S. §§ 32-1001 *et seq.*

10. On December 5, 2005, the Department received a letter from Mr. Sestak indicating that JMBS has completed the requisite applications and forms to apply for a license with the Department. Mr. Sestak also requested a meeting to discuss JMBS' business and the Department's questions.

11. Petitioners were not, at any time material herein, authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001 *et seq.*

...

1 12. Based upon the above findings, the Department issued and served upon JMBS and
2 Mr. Carr an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of
3 Order ("Cease and Desist Order") on January 19, 2006.

4 13. On February 8, 2006, Petitioners filed a Request for Hearing to appeal the Cease and
5 Desist Order.

6 CONCLUSIONS OF LAW

7 1. Pursuant to A.R.S. Title 6, Chapter 12 and Title 32, Chapter 9, the Superintendent has
8 the authority and duty to regulate all persons engaged in the collection agency business and with the
9 enforcement of statutes, rules, and regulations relating to collection agencies.

10 2. By the conduct set forth in the Findings of Fact, JMBS and Mr. Carr violated the
11 following:

- 12 a. A.R.S. § 32-1021(A) by failing to make an original application to the department
13 upon forms prescribed by the superintendent; and
14 b. A.R.S. § 32-1055(A) by conducting collection agency activity in Arizona without
15 having first applied for and obtained a license.

16 3. JMBS and Mr. Carr are not exempt from licensure as a collection agency within the
17 meaning of A.R.S. § 32-1004(A).

18 4. The violations set forth above constitute grounds for the issuance of an order
19 directing Petitioners to cease and desist from the violative conduct and to take the appropriate
20 affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct
21 the conditions resulting from the unlawful acts, practices, and transactions, pursuant to A.R.S.
22 § 6-137.

23 5. The violations set forth above constitute grounds for the imposition of a civil penalty
24 of not more than five thousand dollars (\$5,000.00) for each violation for each day, pursuant to
25 A.R.S. § 6-132.

26 ...

1 **ORDER**

2 1. JMBS and Mr. Carr shall immediately stop all collection agency activity in Arizona
3 until such time as JMBS and Mr. Carr have obtained a collection agency license from the
4 Superintendent as prescribed by A.R.S. § 32-1021. JMBS and Mr. Carr shall continue to operate
5 Jack's Medical Billing Services, Inc. so long as they comply with A.R.S. § 32-1004(A)(13).

6 2. JMBS and Mr. Carr shall immediately pay to the Department a civil money penalty in
7 the amount of four thousand dollars (\$4,000.00). JMBS and Mr. Carr are jointly and severally liable
8 for the payment of the civil money penalty.

9 3. The provisions of this Order shall be binding upon Petitioners, their employees,
10 agents and other persons participating in the conduct of the affairs of Jack's Medical Billing Service.

11 4. This Order shall become effective upon service, and shall remain effective and
12 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated
13 or set aside.

14 SO ORDERED this 22nd day of March, 2006.

15 

16 Felecia A. Rotellini
17 Superintendent of Financial Institutions
18

19 **CONSENT TO ENTRY OF ORDER**

20 1. Petitioners acknowledge that they have been served with a copy of the foregoing
21 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
22 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

23 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the
24 foregoing Findings of Fact, Conclusions of Law, and Order.

25 3. Petitioners state that no promise of any kind or nature has been made to induce them
26 to consent to the entry of this Order, and that they have done so voluntarily.

4. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.

5. Jason Carr, on behalf of Jack's Medical Billing Services, Inc. and himself, represents that he is the President, and that, as such, has been authorized by Jack's Medical Billing Services, Inc. to consent to the entry of this Order on its behalf.

6. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest the validity of the Cease and Desist Order or Notice of Hearing.

DATED this 10th day of March, 2006.

Jack's Medical Billing Services, Inc.

By Jason Carr
Jason Carr, President

ORIGINAL of the foregoing filed this 23rd
day of March, 2006, in the office of:

Felecia A. Rotellini
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: June Beckwith
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

COPY mailed same date to:

Lewis D. Kowal
Administrative Law Judge
Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007


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5 Arizona Department of Financial Institutions
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7 AND COPY MAILED SAME DATE by
8 Certified Mail, Return Receipt Requested, to:

9 Jason Carr, President
Jack's Medical Billing Services, Inc.
10 444 East Southern, Suite F
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11 Petitioners

12 John G. Sestak, Jr., Esq.
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Attorneys for Petitioners

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